

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 95-0004 CS
Controlled Substance Excise Tax
For The Tax Period: 1995

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ISSUE

I. Controlled Substance Excise Tax – Possession

Authority: IC 6-7-3-5

The taxpayer protests assessment of controlled substance excise tax.

STATEMENT OF FACTS

Taxpayer was arrested for possession of marijuana on June 21, 1994. The Department issued the taxpayer a Controlled Substance Excise Tax (CSET) assessment on July 6, 1994. Taxpayer filed a protest of the CSET assessment via counsel on July 26, 1994.

The Department made multiple attempts to contact taxpayer. Taxpayer failed to attend scheduled hearings. Using the best information available, the Department has made substantial efforts to contact the taxpayer. Taxpayer has failed to respond. Therefore, this determination is made based on the original protest filed with the Department.

I. Controlled Substance Excise Tax – Possession

DISCUSSION

Indiana Code 6-7-3-5 states:

The controlled substance excise tax is imposed on controlled substances that are:

- (1) delivered,
- (2) possessed; or
- (3) manufactured;

in Indiana in violation of IC 35-48-4 or 21 U.S.C. 841 through 21 U.S.C. 852.

Taxpayer must prove by a preponderance of the evidence that he neither possessed, nor delivered, nor manufactured the marijuana upon which controlled substance excise tax was imposed. Without evidence to rebut the presumption that he is liable for the tax, based on the information in the file, the Department finds that taxpayer is responsible for the CSET assessment.

FINDING

The taxpayer's protest is denied.